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Agenda item 3

REVIEW OF THE WORK OF THE SUB-COMMISSION

Report of the Working Group on the methods of work of the Sub-Commission, established pursuant to Sub-Commission resolution 1993/4

Chairman-Rapporteur: Mrs. Halima Warzazi

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Introduction

1. By decision 1989/104, the Sub-Commission decided to establish, at the beginning of its forty-second session, a sessional working group of five of its members, appointed by the various regional groups and open to the participation of other members of the Sub-Commission; the task of this group was to make suggestions and proposals to enable the Sub-Commission to discharge its responsibilities better in terms of dealing with violations of human rights, as discussed under item 6 of its agenda.

2. The first session of the sessional Working Group, which was held during the forty-second session of the Sub-Commission in August 1990 (E/CN.4/Sub.2/1990/14), was followed by a second session during the forty-third session of the Sub-Commission in August 1991 (E/CN.4/Sub.2/1991/16). In decision 1991/117, the Sub-Commission decided to request of the Commission on Human Rights authorization to establish, on an exceptional basis in 1992, an inter-sessional working group on the reform of the methods of work of the Sub-Commission. This request was endorsed by the Commission in its resolution 1992/66.

3. At its forty-fourth session, the Sub-Commission, in its resolution 1992/8, having taken note of the report of the inter-sessional Working Group on the methods of work of the Sub-Commission established pursuant to Commission on Human Rights resolution 1992/66 (E/CN.4/Sub.2/1992/3 and Add.1), decided to annex to that resolution the document entitled "Guidelines which the Sub-Commission adopted at its forty-fourth session concerning its methods of work, pursuant to paragraphs 6 and 7 of Commission on Human Rights resolution 1992/66".

4. At its forty-ninth session, the Commission on Human Rights, in its resolution 1993/28, welcoming the report of the inter-sessional working group on the methods of work of the Sub-Commission, invited the Sub-Commission to continue its consideration of ways in which its work should be improved.

5. At its forty-fifth session, the Sub-Commission, in its resolution 1993/4, decided to convene, during its forty-sixth session, a sessional working group to continue the study of its methods of work, with particular emphasis on the methods to be used and procedures to be followed under item 6 of the agenda concerning the violation of human rights and fundamental freedoms, as well as on the means to ensure the follow-up of recommendations and conclusions of studies undertaken under the auspices of the Sub-Commission.

6. The Commission on Human Rights, at its fiftieth session, adopted resolution 1994/23 entitled "Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities". In that resolution the Commission reiterated its invitation to the Sub-Commission to continue its consideration of ways in which its work should be improved, with a view to making recommendations on the following points:

(a) Initiatives for better coordination with the Commission;

(b) Proposals concerning the rationalization of the agenda, bearing in mind, inter alia, the relationship between the agenda of the Sub-Commission and that of the Commission;

(c) Initiatives which would facilitate the widest possible dissemination of the findings of the Sub-Commission, such as the preparation of a short summary of each completed study, the purpose being that the summaries of all studies completed during a session should be published separately in various languages, for example in the Fact Sheet series of the Centre for Human Rights, thus contributing to better publicity for the studies.

I. ORGANIZATION OF THE SESSION

7. Upon the nominations made by various regional groups, the Sub-Commission approved the following composition of the working group: Mrs. H. Warzazi, Mr. S. Chernichenko, Mr. A. Eide, Mr. M. Alfonso Martínez, Mr. R. Hatano. The working group held three meetings on 3 and 4 August 1994. The group adopted its report on 11 August 1994. At its first meeting, held on 3 August 1994, Mrs. Warzazi was elected Chairman-Rapporteur by acclamation.

8. The following documents were available to members of the Working Group:

Report of the working group on its 1990 session (E/CN.4/Sub.2/1990/14);

Working paper submitted by Mr. Chernichenko (E/CN.4/Sub.2/1990/56);

Working paper submitted by Mr. van Boven (E/CN.4/Sub.2/1990/57);

Report of the working group on its 1991 session (E/CN.4/Sub.2/1991/16);

Report of the inter-sessional working group (E/CN.4/Sub.2/1992/3 and Add.1).

The Working Group also had at its disposal informal working papers prepared by Mr. Eide, Mr. Hatano, and Mr. Joinet containing suggestions on methods of work of the Sub-Commission regarding item 6.

9. The meetings of the Working Group were open to all members of the Sub-Commission, as well as to observers for States and intergovernmental and non-governmental organizations.

II. GENERAL DEBATE

10. During the brief general debate, an exchange of views was held on various issues before the working group relating in particular to the implementation of the guidelines contained in Sub-Commission resolution 1992/8.

11. It was felt by some members that the maximum number of 13 studies, established in guideline No. 1, was rather arbitrary, and that the methods and criteria of its calculation should be further discussed and specified.

12. Attention was also drawn to lacunae in the guidelines, relating in particular to the absence of any mechanism for consultations before the vote. It was stressed in this connection that some steps should be taken to avoid situations when, due to the submission of a large number of draft resolutions, members of the Sub-Commission had to take a vote without having properly considered the draft resolutions. The working group also discussed the mandate given to it by the Commission on Human Rights in its resolution 1994/23, as well as the proposals contained in the informal papers prepared by its members.

III. METHODS OF WORK REGARDING ITEM 6

13. On the basis of the proposals made by its members, the working group adopted several recommendations relating to methods of work of the Sub-Commission regarding agenda item 6, which it submits to the Sub-Commission for its consideration. The recommendations are contained in the annex to the present report.

14. The working group had undertaken this work in order to be prepared, should the need arise, to address the issue of speaking time under agenda item 6. In any case, these recommendations should not be applied before the next session of the Sub-Commission.

15. Some of the members wondered what would be the status of these suggestions, in view of relevant rules of the rules of procedure of the functional commissions of the Economic and Social Council. It was felt that if the Sub-Commission were to adopt the recommendations, they could be considered as additional to the guidelines adopted in Sub-Commission resolution 1992/8.

16. During the debate, the observation was made that any proposal to reallocate the speaking time of observers under agenda item 6 should not apply to observer Governments since they rarely exceeded the speaking time and that in general, flexibility should be applied with regard to anyone's speaking time.

17. Several members also emphasized that non-governmental organizations should be encouraged to make joint statements which not only could save considerable speaking time, but could also lead to a more attentive audience.

18. Many participants in the working group stressed the need to hear the voice of the non-governmental organizations on this particular issue, since the Sub-Commission had traditionally been the forum for their participation.

19. A member informed the meeting that non-governmental organizations were anxious about the newly suggested methods of work, their main concern being that they should be properly informed as to the speaking time allocated to them. He also informed the working group that non-governmental organizations were aware of the constraints and ready to make more efficient use of the speaking time allocated to them under agenda item 6.

IV. DISCUSSION OF THE MANDATE GIVEN BY THE COMMISSION ON HUMAN RIGHTS IN ITS RESOLUTION 1994/23

A. Coordination

20. One of the members expressed concern about a misunderstanding that had arisen at the level of the Commission vis-à-vis the work of the Sub-Commission, which was due to a lack of information. In this respect, the need was stressed to continue the valuable practice of inviting the Chairman of the Sub-Commission to address the Commission and to participate in the post-sessional Bureau meetings of the Commission, as well as of inviting the Chairman of the Commission to address the Sub-Commission. It was also proposed that there should be some kind of liaison with the Commission during the sessions of the Sub-Commission.

21. It was also felt that the Sub-Commission should continue to base its work on the guidelines it had adopted, as contained in the annex to its resolution 1992/8, and continue consideration of other proposals made by its inter-sessional working group (E/CN.4/Sub.2/1992/3 and Add.1).

22. It was also proposed that members of the Sub-Commission could consult the sponsors of Commission resolution 1994/23 in order to find out what was behind the request "for a better coordination with the Commission".

B. Rationalization of the agenda

23. It was suggested that rationalization of the agenda of the Sub-Commission should be undertaken in tandem with that of the Commission, especially in view of the forthcoming session of the working group on the organization of work of the Commission, which would also discuss the Commission's agenda. Participants emphasized the need to avoid copying the agenda of the Commission, especially because of the Sub-Commission's character as a body of experts.

24. When discussing the possible merging of agenda items, caution was advised with regard to merging "for the sake of merging". It was agreed that the Sub-Commission should address the issue of continued expansion of agenda item 4 entitled "Review of further developments in fields with which the Sub-Commission has been concerned", where a particular effort should be made to accommodate some of the subjects discussed, under other agenda items. It was also stated that some guidelines should be sought from the Commission with regard to the rationalization of the agenda of the Sub-Commission. Another view was that the Sub-Commission should try to improve its agenda before it was adopted as a draft provisional agenda for next year's session.

C. Dissemination of the findings of the Sub-Commission

25. It was suggested that special rapporteurs should be invited to make brief written summaries of their completed reports and studies. Such summaries should not, however, be considered as part of the reports, but should be contained in appendices to the reports. It was debated whether all the reports should be summarized; it was proposed that the selection be made by the Commission.

26. Another proposal was that the Chairman of each session of the Sub-Commission should determine which ongoing and/or forthcoming sessions of organs, conferences, etc. were to be informed about the work and findings of the Sub-Commission.

D. Other matters

27. Members of the working group briefly discussed areas of overlap and areas where gaps existed between the various mechanisms and procedures, including the "1503 procedure". Concerning the question of communications, it was proposed that the Sub-Commission could make recommendations to the Commission to extend the High Commissioner's mandate in this respect, in order to entrust him with receiving individual communications relating to extreme cases of human rights violations, such as the death penalty, which were not acceptable under other existing procedures.

28. With respect to the question of the reform of the "1503 procedure", including its possible abolition, the view was expressed by several members that it should not be dropped.

29. It was also stated that the role of the Chairman of the Sub-Commission and that of the secretariat should be specified more exactly, especially with regard to action on urgent cases.

30. In conclusion, the working group thought that the dynamic role and the special value of the Sub-Commission as a body composed of independent experts should not be forgotten and that efforts should be made not to turn it into a static body.

ANNEX

Suggestions on methods of work regarding agenda item 6

1. Speaking time

(a) As a guideline supplementary to guideline No. 16, maximum speaking time under agenda item 6 shall, for all observers, be determined by dividing equally the time allocated to observers by the number of speakers who have signed up before the closure of the list. The closure should be set at 1800 hours on the day before the opening of the debate on agenda item 6. Should several observers on the list subsequently agree to make a joint statement, the time of the chosen speaker can be extended. Two meetings shall be allocated for the presentations by the observers referred to above.

(b) The rule under (a) also applies to government observers who wish to provide information on human rights developments in their country, provided they have signed up before the closure of the list mentioned. Government observers should normally avoid - under agenda item 6 - addressing human rights situations in countries other than their own.

(c) Speaking time for government observers exercising a right of reply is additional to time used by that observer Government under (b) and shall be a maximum of five minutes, unless the number and content of allegations directed against that Government warrant the allocation of more time, to be decided by the Chairman at the request of the observer concerned. Rights of reply shall normally be made after the exhaustion of the list of speakers mentioned under (a), but can, in exceptional circumstances with the permission of the Chairman, be made earlier.

2. Allocation of time and sequence of speaking

The allocation of time under agenda item 6 shall be based on the principle that observers on the list mentioned under point 1 (a) speak first, until the list is exhausted, followed by government observers exercising their right of reply. Members of the Sub-Commission should normally speak at the end, it being understood that government observers can also exercise their right of reply to statements made by members of the Sub-Commission.